

**Minutes
Bar Harbor Planning Board
December 5, 2007**

Members present: Kay Stevens-Rosa, Chair; Jennifer Booher, Vice-Chair; Mike Gurtler; Kevin Cochary;

Also present: Anne Krieg, Town Planner; Angie Chamberlain, Code Enforcement Officer; Kris Hultgren, Staff Planner;

I. CALL TO ORDER — 5:30 p.m.

II. EXCUSED ABSENCES

There were no excused absences.

III. ADOPTION OF THE AGENDA

Gurtler moved to adopt agenda, Cochary seconded and the Board voted unanimously on the agenda.

IV. APPROVAL OF MINUTES

Gurtler moved to approve minutes from the September 19 meeting. Cochary seconded and the Board voted unanimously on the motion.

V. REGULAR BUSINESS

A. Remand – SD-06-08 – Cadillac Management, LLC

Project Location: 336 Main Street, Bar Harbor Tax Map 104, Lots 30, 38, 39, 40

Applicant: Cadillac Management, LLC

Application: The application proposes to build an addition (approximately 9,700 SF) to the existing Cadillac Mountain Office Building, with accompanying changes to parking and pedestrian circulation. This agenda item is a remand of the Planning Board decision dated September 22, 2007, from the Board of Appeals (AB-07-16).

Ms. Stevens-Rosa recused herself.

Mike Ross, representing the applicant, explained that only Lot 1 needs to be considered and that is the only change to the plan. There is adequate parking available with the 16 existing spaces and open space and tree credits.

Mr. Gurtler asked Mr. Bragg to review the procedure for hearing a remand. Mr. Bragg discussed the Appeals Board decision and administering the credits and other parts of the approval. Specifically, whether the change in parking

affects the traffic circulation in the neighborhood and other parts of the approval that the Board would like to review.

Mr. Ross stated for the record that he does not believe the Board can reconsider parts of the application that were not part of the appeal.

Mr. Gurtler expressed wanting to review the traffic implication now that the parking has changed. Mr. Cochary echoed Mr. Gurtler's point of view.

Ms. Booher expressed a concern about the street trees on Center Street. She does not believe they should be included as credits because the trees are too large for allowable space.

Mr. Gurtler asked for a traffic study that takes into account the new parking scenario.

Mr. Ross suggested getting an endorsement of the new traffic scenario from a third party justifying the new parking.

Mr. Cochary asked that Snow Street be part of the new traffic analysis.

The Board talked about allowing trees on Center Street that hang over and could potentially be dangerous for cars.

Mr. Cochary asked Mr. Bragg to make a finding for the January 16 Planning Board meeting that explains the Board's right to accept or deny tree credits that may be harmful to the neighborhood by obstructing the flow of traffic.

The Board asked the applicant to submit a new plan to discuss for the January 16 Planning Board meeting.

The Board discussed with Mr. Bragg whether to reopen the public hearing. Mr. Bragg said that is up to the Board.

Mr. Gurtler made a motion to continue the application to the January 16, 2008 Planning Board meeting. Mr. Cochary seconded and the Board voted unanimously on the motion.

B. Public Hearing – SD-06-21 – Mill Brook Hollow Subdivision

Project Location: 68 Millbrook Road, Bar Harbor Tax Map 229, Lot 23

Applicant: Everett White

Application: Proposes to create a residential subdivision of four lots of varying sizes ranging from approximately 3 to 1.25 acres.

Perry Moore, representing the applicant updated the Board on the status of the project.

Ms. Stevens-Rosa opened the public hearing.

No comments were submitted.

Ms. Stevens-Rosa closed the public hearing.

Mr. Gurtler made a motion to approve SD-06-21 with the condition that a permit-by-rule be obtained for the stream crossing. Mr. Cochary seconded and the Board voted unanimously on the motion.

C. Continuation of Sketch Plan Review – SD-07-06 – Owl’s Nest Subdivision

Project Location: Stony Brook Way, Bar Harbor Tax Map 208, Lot 96

Applicant: Owl’s Nest, LLC

Application: Proposes an 11 lot subdivision

Ms. Krieg gave an overview of the discussion at the October 17 meeting. She specifically mentioned the issue of the 2nd egress.

Town Attorney Lee Bragg discussed the issue. He explained that the lot at issue is part of the previously approved subdivision because it meets the definition of a lot under the state subdivision law. Mr. Bragg disagreed with the applicant that the two egress issue is resolved by the new development connecting to a public road that connects to another public road.

Mike Ross, representing the applicant, pointed out that the original subdivision was approved as 13 lots and not 15 lots. Mr. Ross went on to discuss the Bar Harbor’s Land Use Ordinance subdivision regulations. Mr. Ross believes these two remaining pieces of land are parcels and not lots. Mr. Ross referred to section 125-66(J)(6) of the Land Use Ordinance to show the lot is not part of a subdivision and discussed street connection requirements. Overall, Mr. Ross strenuously objected to Mr. Bragg’s interpretation of the subdivision law.

The Board discussed the safety issues around more than 15 lots without two ways out.

The Board discussed getting a ruling on the disagreement before moving forward. Because the sketch plan process is non-binding, Mr. Bragg said there is nothing to appeal until the applicant files for completeness. The Board decided to act on waivers, and schedule a neighborhood meeting and site visit.

Mr. Gurtler made a motion to grant the waivers as requested by the applicant. Ms. Booher seconded and the Board voted unanimously on the motion.

The Board directed staff to schedule a neighborhood meeting and site visit.

D. Sketch Plan Review – SD-07-10 – Eventyr Woods Subdivision

Project Location: Eagle Lake Road, Bar Harbor Tax Map 107, Lot 1

Applicant: Robert Juliano

Application: Proposes a 46 lot residential subdivision

Jeff Allen, representing the applicant, gave an overview of the project. His description included the applicant's previous work on the project a year ago and the new submission. Mr. Allen described the project as not changing significantly.

The Board and the applicant discussed the project. This included talking about water capacity, stormwater, sewer, visual impacts on Acadia National Park and impacts on surrounding home owners.

Ms. Stevens-Rosa opened the hearing to public comment.

Gary Friedmann, a resident of the neighborhood, asked the applicant to consider screening buildings from view, restricting the color of homes and lighting to consider dark sky concerns. Mr. Friedmann also asked that the town be in charge of enforcing the covenants.

John Kelly of Acadia National Park addressed the Planning Board and commented about working with the applicant and their good faith efforts to address concerns of the park. Mr. Kelly explained a few issues that have not yet been addressed by the applicant. These included lighting, stormwater runoff onto a park owned conservation easement on the Thorndike property and trail connections.

Loren Hubbard, an abutting land owner, asked about the applicant's plans for two small lots at the north-end part of the development. Mr. Allen responded that the land in question is reserved for the detention pond in the stormwater management plan.

Mr. Gurtler made a motion to grant the waivers for 5a, 5c, 7.2 and 9hh. Mr. Cochary seconded and the Board voted unanimously to approve the waivers.

The Board directed staff to schedule a site walk and a neighborhood meeting.

E. Completeness Review – SD-07-05 – Sand Point Road Subdivision

Project Location: 192 Sand Point Road, Bar Harbor Tax Map 204, Lot 62 and a portion of Tax Map 208, Lot 45

Applicant: Brian D. Shaw

Application: Proposes a 7 lot residential subdivision

The applicant requested a continuance of the completeness review to the January 16, 2008 meeting.

Mr. Gurtler made a motion to direct staff to conduct peer review of the groundwater and stormwater plans. Mr. Cochary seconded and the Board voted unanimously on the motion.

Ms. Booher made a motion to continue the completeness review of SD-07-05 to the January 16, 2008 Planning Board meeting. Mr. Gurtler seconded and the Board voted unanimously on the motion.

F. Completeness Review – SP-07-04 – MDI Hospital Parking Lot

Project Location: Corner of School Street and Edgewood Street, Bar Harbor Tax Map 107, Lots 115, 116, 117, and 118

Applicant: Mount Desert Island Hospital

Application: Proposes to construct a 22 space parking area

Greg Johnston, representing the applicant, gave an overview of the plan. He described a 22 space parking lot behind the YMCA. He went on to detail the stormwater mitigation efforts including rain gardens and the overflow patterns. The lot will be constructed in a concave form to direct stormwater into the rain garden at the center of the proposed parking lot. He talked about the plan to build sidewalks along the lot, the lighting around the lot and the grading plan.

Mr. Gurtler inquired about the stormwater system in the area and specifically the catch basin in the YMCA parking lot and the impacts of flooding waters on the ball fields.

Mr. Gurtler asked the applicant to provide a plan regarding the lighting to show how much the lot is currently illuminated with the existing lighting.

Ms. Booher asked the applicant about the rain garden in the middle of the lot and specifically about the possibility of cars slipping into the ditch.

Ms. Stevens-Rosa inquired about the navigation of cars into the lot and whether cars have enough room to park and back up. Mr. Johnston said it is somewhat tight but manageable.

Ms. Stevens-Rosa confirmed with the applicant that appropriate signage will be part of the lot.

Mr. Cochary asked about plant maintenance guarantees. Ms. Krieg explained that in 125-98 of the Land Use Ordinance the plant maintenance guarantees for the applicant are clearly explained.

Mr. Gurtler made a motion to grant the waivers as requested. Ms. Booher seconded and the Board voted unanimously on the motion.

Mr. Gurtler asked about the schedule for going to the Design Review Board for approval and Ms. Krieg explained that the applicant will have to do this before public hearing.

Ms. Booher asked about the traffic impacts. The applicant said that most of the spots will be taken by employees.

The applicant explained that the YMCA can use the parking lot during non-peak hours that include after 7pm and before 7am, Monday through Friday, and all day on the weekend.

Mr. Gurtler made a motion to find the application complete pending the receipt of capacity statements from police, fire and public works. Mr. Cochary seconded and the Board voted unanimously on the motion.

Mr. Johnston submitted updated stormwater data for the record to aid in the town's evaluation.

G. Sketch Plan Review – SD-07-11 – Hamilton Station

Project Location: State Highway 3, Bar Harbor Tax Map 202, Lot 33 and Tax Map 202, Lot 47

Applicant: Shaw & Gott, LLC

Application: Proposes a 9 lot residential subdivision

Noel Musson, representing the applicant, gave an overview of the project and thanked the Board for its feedback throughout the process. He described the 23 acre site as having 9 housing lots with condominium areas, two roads accessed from Bay View Drive, minimal lighting and a buffer from Route 3.

Ms. Stevens-Rosa asked about the remaining land. Mr. Ross, representing the applicant, said the land will be conveyed before an application is submitted to the town.

The Board and the applicant discussed the additional land and whether the Board should consider this piece during the development review process. Mr. Ross explained the applicants intent. It was agreed that if the piece of land

not being developed is conveyed before an application is in front of the town it should not be considered as part of the development.

The Board continued to discuss the project with Mr. Musson who explained the plan to bring utilities in from Bay View Drive and put utilities underground. The Board asked about the road design and location of housing units.

Mr. Gurtler asked about wetland delineation and expressed a neighbors concern as to whether small pieces of wetland are included with a larger wetland. Ms. Krieg says if there is a question staff will recommend peer review.

Ms Stevens Rosa asked for public comment.

Pat Ward-Bailey, a resident of Bay View Drive, thanked the developer for listening to the neighbors but expressed concern about the access ways into the property from Bay View Drive.

John Kelly, a nearby resident, expressed concern about the full build out of both parcels. He asked about a cap on the number of units. Mr. Kelly also asked about enhancing the vegetative buffer along Route 3. He further asked the restrictive covenants to include a restriction on lighting.

Mr. Gurtler made a motion to approve the waivers as requested. Mr. Cochary seconded and the Board voted unanimously on the waivers.

The Board directed staff to schedule a neighborhood meeting and decided not to conduct another site visit.

VI. OTHER BUSINESS

A. Jordan-Fernald Funeral Homes – Request for discussion on table of uses and district

The owner of Jordan-Fernald Funeral homes asked for a conditional use for possible professional office uses. Ms. Krieg explained that the business is currently within the Bar Harbor Residential zone so it does not allow a professional office use. She went on to describe the update to the zoning as called for in the Comprehensive Plan and this is an issue that could be addressed at that time.

B. Land Use Ordinance Work:

Communications Tower

Shoreland Zoning Update

Groundwater

Planning Board and Appeals Board Process

Ms. Krieg updated the Board on the Land Use Ordinance Work and the process moving forward.

VII. PLANNING DIRECTOR'S REPORT

No Report

VIII. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA

No Comments or Suggestions for the next agenda

IX. ADJOURNMENT - 9:41 PM